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DEPT OF LABOR FOR DOL/ILAB - TMCCARTER
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SUBJECT: UKRAINE: UPDATE OF CHILD LABOR INFORMATION FOR TDA
REPORT

REF: A) STATE 149662

B) 2006 KYIV 4542

¶1. Post provided detailed information on child labor in Ukraine last year (ref B), the first time that Ukraine was covered by this Trade and Development Act (TDA) reporting requirement. As requested by ref A, below Post provides updated information on child labor issues.

¶2. Post will also send this information via email to USDOL POC Tina McCarter. Post's POC is Christian Yarnell, Economic Officer - Email: yarnellc@state.gov; Phone: 011-380-44-490-4276; Fax: 011-380-44-490-4277).

Laws/Regulations Proscribing the Worst Forms of Child Labor

¶3. Ukraine's Labor Code sets 16 as the minimum age for employment, although as of age 15 adolescents may engage in "light work" with their parents' consent. The law does not, however, clearly define the term "light work." In addition, children aged 14 can legally do some forms of agricultural and social work on a short-term basis, with the consent of one parent.

¶4. The law "On Childhood Protection" provides the primary legal framework for combating child labor. Article 21 of this law forbids the "involvement of children in the worst forms of child labor" and defines the "worst forms of child labor" in line with ILO Convention 182. Ukraine ratified ILO Convention 182 on December 14, 2000. The law "On Childhood Protection" provides a list of occupations considered among the worst forms of child labor but does not specify particular activities within those broad occupations. Ukraine's National Tripartite Social and Economic Council is currently developing a more detailed list of activities considered the worst forms of child labor.

Implementation and Enforcement

¶5. The State Labor Inspectorate (full name: State Department of Surveillance over Labor Legislation Observance) under the Ministry of Labor and Social Policy is responsible for implementing and enforcing child labor laws in the formal sector. The State Labor Inspectorate maintains local offices in all of the country's 25 regions and has approximately 2,000 individual inspectors countrywide. In the informal sector, enforcing responsibility falls to the Department of Juvenile Affairs

(under the Ministry of Family, Youth, and Sport) and the Criminal Police (under the Ministry of Internal Affairs). The GOU cooperates with the ILO's International Program on the Elimination of Child Labor (IPEC).

¶16. Experts agree that child labor in Ukraine exists most often in the informal sector, where the activities children are engaged in are illegal. Common examples include sex services, pornography, and unsanctioned coal mining. Specific cases from 2007 include Europol's discovery in November of a child pornography ring that victimized 21 Ukrainian children, and an investigation in the eastern oblast of Donetsk of a boarding school for disabled children that allowed a group of underage orphans to sift and load coal for a nearby company. In such cases, law enforcement agencies usually take the lead and seek prosecution of those responsible for the illegal activity and illegal hiring of children. Tetyana Minenko, National Program Manager for ILO/IPEC, told Econoff on November 23 that recent surveys indicated that enhanced GOU enforcement efforts had at least eliminated child labor underground at unsanctioned coal mines, although children continued to work on the surface at such mines.

¶17. According to Article 150 of Ukraine's Criminal Code, the unlawful employment of an underage child carries a sentence of up to six months imprisonment, or judicial restraint for up to three years, along with restrictions for up to three years on the right to occupy certain positions and conduct certain business activities. A stiffer sentence of imprisonment from two to five years is possible if multiple underage children are involved, if the offender causes considerable damage to the health or physical condition of the child, or if the work involves some kind of hazardous production. In addition, Article 304 of the Criminal Code allows for imprisonment, or judicial restraint, for a term

up to three years for the involvement of adolescents under 18 into criminal activity, drunkenness, begging, or gambling.

¶18. The government investigates complaints and attempts to address violations, although incidents of child labor remain. Ukraine's system of labor inspections is split among three different bodies -- the State Labor Inspectorate, the State Committee for Industrial Safety, Occupational Health, and Mining Supervision, and the State Committee on Occupational Hygiene (under the Ministry of Health). Better integration of the inspection function would likely improve the government's ability to combat child labor. Some legal restrictions also constrain labor inspectors in their efforts to combat child labor. For example, labor inspectors cannot investigate cases at private residences (including household farms), where some businesses employing children may be registered. The Ministry of Labor and Social Policy is currently drafting legislative amendments meant to eliminate these restrictions.

¶19. Violators of child labor laws in the formal sector usually face only small administrative fines, and punishments do not constitute a serious deterrent. Employers of children who engage in criminal activities are more difficult for the government to monitor, but routinely face criminal prosecution when discovered.

¶10. Investigating child labor abuses is part of the State Labor Inspectorate's broader enforcement of labor laws, and there are no inspectors devoted solely to child labor. Through 563 inspections during the first half of 2007, the State Labor Inspectorate found 1500 cases in which adolescents under 18 years old were working. Inspectors passed 62 cases to law enforcement bodies to pursue criminal prosecution. Authorities filed administrative charges with the courts in 257 cases. Information on how these cases concluded is not available. Fifteen employers faced administrative liability for refusal to cooperate

with labor inspectors.

¶11. Inspectors receive some training on child labor laws, although State Labor Inspectorate representative Irina Vasylenko told Econoff on November 9 that inspectors could benefit from additional training on how to conduct interviews more effectively with children and employers.

Social Programs to Combat Child Labor

¶12. Parliament adopted "The National Program on Supporting Youth for 2004-2008" on November 18, 2003. The program aims at creating favorable political, social, economic, legislative, financial, and organizational conditions for addressing the urgent problems of young people.

¶13. The President of Ukraine issued a Decree "On Priority Measures to Protect Children's Rights" on July 11, 2005. The government of Ukraine subsequently developed a series of policy initiatives to implement the President's goals. Among these initiatives are the following:

-- The Decree "On the Statute of SOS-Children Village," issued on March 15, 2006, established a specialized nonprofit organization, under the supervision of the Department of Juvenile Affairs, which seeks to provide disadvantaged children with life skills and educational opportunities within a family environment.

-- "The State Program on Family Support for 2006-2010" was approved by the Government on May 11, 2006. It acknowledged the increasing number of street children and the high level of child neglect. The initiative sets a minimum level of financial assistance for vulnerable families. It also carries provisions for psychological support, and for broad public awareness campaigns on family values and healthy lifestyles.

-- "The State Program on Reforming the Boarding System for Children-Orphans and Children, Deprived of Parental Care," approved on May 11, 2006, seeks to restructure the nation's boarding schools, and to promote foster care and other alternative models of child care.

-- "The State Program on Education Development for 2006-2010," approved on July 12, 2006, aims to reform the

Ukrainian education system along European lines. It supports improved education in rural areas and for children lacking parental care.

-- The government amended the "Regulation On Setting and Payment of State Allowances for Families with Children" on August 1, 2006 to provide single-parent families with state allowances for children, up to 23 years of age, studying in institutions of higher education. The state previously provided such assistance for children only up to 18 years of age.

-- "The State Program on Combating Trafficking in Human Beings," approved on March 7, 2007, and in force until 2010, contains special provisions on child trafficking. The program requires the Ministry of Family, Youth and Sports, as well as other executive bodies, to allocate budget funds to help the victims of trafficking, and child trafficking in particular.

¶14. The Ministry of Education and Science takes the lead in developing and implementing programs to support children's access to schooling. In particular, the Ministry publishes and supplies free manuals for schools, provides busing for children in rural areas, and supports teachers in rural schools through initiatives to provide teachers with housing and supplemental wages.

¶15. The government provides support to vocational programs for older children that can serve as an alternative to

work. The Public Employment Service operates a vocational training program for unemployed youth who are outside the education system. In collaboration with the Ministry of Education and Science, the Public Employment Service also conducts job counseling and vocational reorientation activities to meet current labor market demands, and has expanded its efforts to provide training for school guidance counselors. Working with the ILO's SCREAM Initiative ("Supporting Children's Rights through Education, the Arts, and the Media"), the Ministry of Education has provided materials to schools across the country meant to promote children's participation in extracurricular activities, and to keep them out of the labor force.

¶16. Ukraine's Constitution calls for universal education, and authorities generally enforce this requirement. Public education is free, but students are sometimes expected to cover their own expenses for books, supplies (including school uniforms), and transportation. These expenses can be quite costly for poorer Ukrainian families and can, in rare cases, prevent some children from attending school. Transportation can be a particularly difficult impediment; the state's ability to provide buses in some school districts, particularly those between small villages, is limited by budgetary constraints. The Ministry of Education is implementing a \$96 million World Bank project meant to improve the country's education system and ensure equal access for all Ukrainians.

Comprehensive Policy for Elimination of Child Labor

¶17. Through the 2005 Decree "On Priority Measures to Protect Children's Rights," the President empowered the Government to draft a National Action Plan (NAP) for the period 2006-2016 aimed at the effective implementation of the UN Convention on the Rights of the Child, as well as a National Program to Combat Child Homelessness for the period of 2006-2010. The NAP, approved on April 22, 2006, tracks closely with the UN Convention on the Rights of the Child. The draft NAP also outlines an improved Child Labor Monitoring System. In 2006, the government submitted the NAP for parliamentary approval, which would help guarantee consistent state budget funding for the protection of the rights of children. Parliament adopted the NAP as a law only in July, when Ukraine was in the midst of a political crisis, and the law never took effect because the President refused to recognize the legality of any acts passed by the Parliament during this period. The Ministry of Labor hopes that the new Parliament, which took office in November, will return to the issue.

¶18. The 2005 Presidential Decree also requested the Ministry of Justice to examine and improve the juvenile justice system. The Ministry of Interior, meanwhile, was tasked to improve efforts to locate missing children,

better identify individuals who involve children in illicit activities (begging, prostitution, etc.), and bring these individuals to justice.

¶19. President Viktor Yushchenko has made the elimination of the worst forms of child labor a government priority since taking office in 2005, and has spoken publicly on the issue on several occasions.

Progress toward Eliminating the Worst Forms of Child Labor

¶20. As established by the Constitution of Ukraine, child labor has been and remains formally prohibited. However, it has always existed, and was an integral part of the Soviet educational system, considered valuable experience in preparing children for the workplace. Under the planned Soviet economy, child labor did not have an overly destructive impact on children because it was overseen by national education bodies and was utilized as a means of

education rather than family subsistence. The situation changed dramatically after the downfall of the Soviet Union and the subsequent collapse of the Ukrainian economy, however, when child labor as a large scale social and economic problem took on new dimensions. The collapse of the economic system fostered the emergence of a large shadow economy in which child labor is widely used. Petty commerce appears to be the most common occupation in which children are engaged, as approximately one third of working children sell products on the streets or in unofficial markets. Poverty became the primary driving force for child labor, and general social disorder rendered children unprotected, particularly in relation to the employer.

¶21. Children are not found in Ukraine to be working in slavery or practices similar to slavery. Children are trafficked to work, however. Ukraine is a point of origin for internationally trafficked men, women, and children. The main destinations are Russia, Turkey, Western and Central Europe, particularly Poland and the Czech Republic, and the Middle East. The country is also a transit route for individuals from Central Asia, Russia, and Moldova. According to the International Organization for Migration (IOM), the main trafficking victims are females up to 30 years of age (for sexual exploitation) and older females (for labor exploitation), males of all ages (for labor exploitation), and children under the age of 16 (both for sexual and labor exploitation). Children who were trafficked across the border or within the country are forced to provide sexual services, engage in unpaid work, or beg. The law provides for penalties of three to eight years' imprisonment for trafficking in persons for various purposes, including sexual and labor exploitation. Under some aggravated circumstances involving trafficking of minors aged 14 to 18, traffickers may be sentenced to prison terms of from five to 12 years. Traffickers of minors under the age of 14 may be sentenced to terms of from eight to 15 years.

¶22. Although the ILO cites encouraging trends in the decrease of unemployment to seven percent in Ukraine in 2006, 23 percent of those registered as unemployed at the State Employment Service are young people. The situation is even worse in rural areas. According to research conducted in 2003 by the National Institute on Problems of International Security, the main reason for rural youth to go abroad (and to be vulnerable to trafficking) is unemployment, while for urban youth it is low-paying or non-paying salaries.

¶23. The government has made progress in combating child labor in recent years, but substantial tasks remain. The majority of local government agencies, as well as some central government bodies, still do not possess sufficient awareness, commitment, and capacity to plan and implement interventions to combat child labor. In addition, Ukrainian society has only recently begun to recognize the existence of child labor and associated problems. Broad societal support, strong and consistent political commitment, as well as support from a wide range of government agencies still need be ensured. Institutional capacity also needs to be strengthened, both in substantive (child labor related knowledge and methodology) and technical (program management capacity and resource mobilization) areas. That said, the government's recent efforts to combat child labor, and its cooperation with the ILO on this issue, have been a very positive step.